

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MAURICE DANIELS,

Defendant-Appellant.

UNPUBLISHED

December 17, 2002

No. 234425

Kent Circuit Court

LC No. 97-012494-FC

Before: Owens, P.J., and Murphy and Cavanagh, JJ.

MEMORANDUM.

After remand from this Court, defendant appeals as of right the order resentencing him as a fourth offense habitual offender to three concurrent nineteen- to forty-year terms. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was convicted by jury of two counts of first-degree criminal sexual conduct, MCL 750.520b, and one count of second-degree criminal sexual conduct, MCL 750.520c. The visiting judge who presided over the trial was not available, and defendant was sentenced by another circuit judge to three twenty-five- to fifty-year terms. This Court affirmed defendant's convictions, but remanded for resentencing before the visiting judge who conducted the trial, if he was reasonably available. *People v Daniels*, unpublished opinion per curiam of the Court of Appeals, issued 08/11/00 (Docket No. 213597).

The judicially adopted sentencing guidelines, in place at the time of the offense, are not applicable to habitual offenders. *People v Cervantes*, 448 Mich 620, 625; 532 NW2d 831 (1995). In reviewing habitual offender sentences, this Court must only determine if the trial court abused its discretion. *People v Hansford (After Remand)*, 454 Mich 320, 323-324; 562 NW2d 460 (1997).

There is no showing that the court abused its discretion in imposing sentence. Defendant committed serious crimes involving a small child. He committed these offenses while on parole, and he has four prior felony convictions. His expressions of remorse and positive institutional record do not establish that his nineteen-year minimum sentences are an abuse of discretion.

Affirmed.

/s/ Donald S. Owens
/s/ William B. Murphy
/s/ Mark J. Cavanagh